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SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND
PROTECTION OF MINORITIES

Forty-ninth session

SUMMARY RECORD OF THE 20th MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 19 August 1997, at 10 a.m.

Chairman: Mr. BENGOA

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The meeting was called to order at 10.20 a.m.

CONTEMPORARY FORMS OF SLAVERY (agenda item 6)(continued)
(E/CN.4/Sub.2/1997/11, 12, 13 and 41 and E/CN.4/Sub.2/1997/NGO/10)

1. Mr. KIM Song Chol (Observer for the Democratic People's Republic of Korea), summarizing the views of his Government presented in document (E/CN.4/Sub.2/1997/41), said that the crime of sexual slavery committed by Japan and the imperial army in the past was the historical origin of the oppression still suffered by its women victims today. The letter of apology from the Prime Minister of Japan and the setting up of the Asian Women's Fund were merely attempts to divert attention from the Japanese Government's legal responsibility. The Special Rapporteur on violence against women had pointed out that the Japanese Government must accept its legal responsibility under international law and pay State compensation. Until then, an apology from the Emperor himself would be no more than empty talk. It was clear that the Japanese Government had neither the intention nor the wish to atone for the past crimes against humanity committed by its army. That was why high-ranking officials and politicians continued to debase the comfort women as "prostitutes" and glorified their country's past. The insulting Asian Women's Fund should be scrapped, and the Japanese Government should reveal its long-hidden documents and make proper reparation in the name of the State for the past crimes of Japanese imperialism.

2. Mr. SHEIKH (Observer for Pakistan) said that, much as he valued the contribution of non-governmental organizations (NGOs) to the human rights debate, some Indian-sponsored NGOs appeared to have only one item on their agenda, namely, to defame Pakistan. In reply to accusations by such NGOs, he cited a report from the Washington Post of 16 October 1996, according to which at least 15 million of the 150 million children working in India were virtual slaves toiling in bonded labour. The NGO Human Rights Watch (Asia) placed responsibility for the situation firmly with the Government of India.

3. The correct figure for the number of economically active children in Pakistan, as revealed by a survey initiated by the Government of Pakistan and carried out in cooperation with the International Labour Organization (ILO), was 2.7 to 3.3 million, far from the figures of 7, or even 20 million claimed by some NGOs. Of course, regardless of the numbers involved, the abhorrent practice of child and bonded labour had to be eradicated. Statutory and administrative instruments were already in place in Pakistan to achieve that end, notably, the Employment of Children Act of 1991 and the Bonded Labour System (Abolition) Act of 1992. With technical assistance provided by ILO-IPEC rules had been formulated in 1995 to facilitate their enforcement. Magistrates at various levels were empowered to ensure that all the provisions of the 1992 Act were properly implemented. Pursuant to the provisions of the Act, vigilance committees had been formed at district level and efforts were being made to further strengthen their functioning. Their performance was frequently evaluated at inter-ministerial and inter-provincial government meetings.

4. The Government of Pakistan was also taking measures to raise public awareness about bonded labour. The 1992 Act and the 1995 rules had been published in Urdu, and the Ministry of Social Welfare had prepared a four-year

programme using electronic media to raise awareness of the problem. The existence of a free press had also played a part in sensitizing the general public.

5. In response to questions raised about the legality of sections 6 and 8 of the 1992 Act, he recalled that the Supreme Court of Pakistan ruling had pronounced bonded labour to be in contravention of the Constitution of Pakistan, thus ensuring the implementation of the 1992 Act.

6. He drew attention to some of the measures taken by the Government and the private sector in the previous year with the aim of eliminating child labour. The Sialkot Agreement, signed by the Sialkot Chamber of Commerce and Industry, the ILO and the United Nations Children's Fund (UNICEF), aimed to eliminate child labour from the soccer-ball industry and provide children with educational and other opportunities. Also, a national-level NGO, the Child Care Foundation of Pakistan, had been set up to deal with child labour; its Board of Governors included representatives of the Ministry of Labour, UNICEF and the Human Rights Commission of Pakistan, and it expected to launch a reliable system for monitoring child labour in the very near future. Manufacturers in the private sector were about to sign an agreement to set up a system of monitoring-cum-certification and to set up welfare projects for children in Pakistan. The Pakistan Carpet Manufacturers' and Exporters' Association had set up six schools for working children and was running 10 dispensaries in carpet-weaving areas in and around Lahore. The Sialkot Chamber of Commerce and Industry had also set up schools, dispensaries and vocational institutes for children in the soccer-ball industry, and 27 rehabilitation centres for working children had been set up by the Pakistan Baitul Mal. Pakistan had taken the lead in establishing the target date of 2005 for the elimination of child labour in the South Asian region, adopted at the third conference on children organized under the auspices of the South Asian Association for Regional Cooperation. Inspections had been stepped up and inspectors were better trained.

7. Thus, while steps were being taken to develop monitoring and certification systems, practical measures were being taken to ensure better working conditions for child workers and their families. All those measures illustrated the commitment of the Government of Pakistan, the general public and many other partners to combat and eliminate child and bonded labour.

8. Mr. LEPATAN (Observer for the Philippines) said that his Government was aware of the pain and suffering endured by the wartime "comfort women", who continued to suffer and to be haunted by their past humiliation. He noted that the Japanese Government had expressed its sincere apologies and remorse to all former comfort women, conveyed the willingness of the Japanese people to offer atonement for their suffering and had supported the establishment of the Asian Women's Fund. In close cooperation with the Philippine Task Force on Comfort Women, the Fund had offered atonement money and put together a package of services including adequate medical attention, good nutrition, housing improvement, productive activities and family care. All the former comfort women identified by the Philippine Task Force had received letters of apology from the Japanese Prime Minister as well as atonement money. The Fund financed a social and medical welfare fund for the women which was being administered by the Philippine Government. While the Philippine Government

would continue to cooperate with the Fund, it recognized the right of any former comfort woman to seek legal redress and compensation from the Japanese Government.

9. Mr. GOONETILLEKE (Observer for Sri Lanka) said that he wished to pay tribute to the Working Group on Contemporary Forms of Slavery which had given priority consideration to the issue of the sale of children, child prostitution and child pornography and had made some useful recommendations.

10. In Sri Lanka, it had been revealed that the majority of recent cases of child prostitution, pornography and abuse had been organized for financial gain with the active collaboration of foreign nationals, against whom legal action had been taken. He welcomed the cooperation received from countries whose nationals were involved in such activities and the action taken by NGOs and others to stir the conscience of the international community, but hoped that more stringent legal and enforcement regimes would be adopted by the international community to eradicate the problem.

11. He drew attention to measures taken by the Government of Sri Lanka to protect children and prevent their exploitation. It had ratified the Convention on the Rights of the Child and promulgated a Children's Charter based on the Convention. It had set up a national committee to monitor the rights of the child, developed a national plan of action and hosted a conference on children under the auspices of the South Asian Association for Regional Cooperation.

12. It had implemented a programme to raise awareness of child prostitution and pornography and amended the Penal Code and the Children and Young Persons' Ordinance to extend legal protection against child prostitution to male children, and to make trafficking in children and sexual abuse punishable offences. The offences punishable under the present law included the use of children in obscene publications, cruelty to children, procurement, sexual exploitation of children, trafficking, rape, incest, unnatural offences, gross indecency and sexual abuse. Stiffer penalties were an important aspect of the legal reforms. There were now special police units to deal with crimes against women and children, and the public response to an awareness-raising programme conducted by the Department of Probation and Child Care had been encouraging.

13. The Government was considering recommendations to make child abuse a non-bailable offence, dealt with by special women police officers. A 24-hour helpline had brought a number of cases to the attention of the police. The Government also proposed to establish a National Child Protection Authority, which would advise on the formulation of national policy and legal reform, work to raise awareness and monitor the implementation of relevant laws. It would also have the discretion to institute legal action against offenders, and would develop a national database on child abuse and liaise with foreign Governments and organizations.

14. As the incidence of child abuse was linked to poverty, the prevention and elimination of the problem required long-term structural reforms in the social and economic fields, which would require a redoubling of the efforts of the relevant United Nations agencies and other organizations, in cooperation

with national Governments. He urged the Sub-Commission to take further action, aimed at the eventual elimination of the problem, pledging the full support of his delegation to achieving that goal.

15. Mr. SOKHONA (Observer for Mauritania) said that comments by a representative of Anti-Slavery International had prompted him to take the floor. Mauritania had responded to wrongful accusations of perpetuating the practice of slavery 17 years earlier by inviting the Sub-Commission to send a fact-finding mission to the country. The mission had confirmed that the Government of Mauritania had nothing to hide on the question of slavery. No doubt Mauritania had been singled out because of the multiracial nature of its people, all of whom had been affected by a form of slavery that was not defined along racial lines, as in the more familiar case of the subjugation of blacks by whites. It had been generally agreed that the after-effects of slavery lingered only in the minds of a few in Mauritania and would disappear as social and economic development progressed. For that reason, a development strategy focusing on socio-economic development and the consolidation of democracy had been put in place and implemented. Priority had been given to providing the most disadvantaged with access to education, health and property. A 90 per cent school-attendance rate, implementation of the health-for-all strategy of the World Health Organization (WHO), land reform, improved telecommunications and roads, and the extension of the electricity grid to the main towns were signs of a successful socio-economic policy. Meanwhile, the beginning of the democratic process had been marked by elections in 1986, and the adoption of the Constitution in 1991 had established the rule of law. Since then, further elections and a healthy press had allowed an open, multi-party democratic system to become well established.

16. Development activities and the climate of freedom had led to profound social change, with the breakdown of traditional social structures. Thus, for example, important ministerial and other positions were now held by people descended from slaves, largely as a result of almost universal school attendance, developments in the media and literacy campaigns. Democratization had been the turning point for Mauritania, as politicians were obliged to take into account the concerns of all sectors of the nation, especially the underprivileged. The free press also contributed to healthy public debate, and the independence of the judiciary was guaranteed by the Constitution.

17. Unfortunately, some chose to disregard the undeniable progress that had been made and preferred to make an issue of what was an emotionally-charged subject, with the connivance of certain groups outside the country. False testimony was exploited to harm the image of Mauritania. His Government, however, did not need to rely on words in its defence, but could point to a list of positive achievements. Help for the disadvantaged and the elimination of poverty and social ills would remain its priorities, and it would continue with its socio-economic policies and with the consolidation of the rule of law to ensure emancipation and social progress.

18. Mrs. SYAHRUDDIN (Observer for Indonesia) welcomed the recommendation of the Working Group on Contemporary Forms of Slavery entitled Sexual slavery during wartime, in particular during the Second World War, which, inter alia, invited the Government of Japan to continue to cooperate with the

United Nations and the specialized agencies. She noted the Japanese Government's efforts to address the problem and the contribution of the Asian Women's Fund to improving social welfare services for elderly people in Indonesia, in part through Indonesia's own national social and welfare programmes that targeted the most needy members of the population.

19. Mrs. DAES said that the United Nations system should redouble its efforts to protect children at the national, regional and global levels. Special attention should be paid to the fate of imprisoned children, particularly juveniles detained together with adults, who were subjected to a variety of abuses.

20. The fate of stowaways was another humanitarian problem that deserved closer attention. According to reliable sources, unemployed people from poor countries often paid their entire savings to the owners, captains or crew of small boats to transport them to countries where they hoped to obtain asylum or find employment. They were usually abandoned in appalling conditions on remote islands or in isolated regions of the countries concerned. Some died and some were imprisoned. She suggested that the subject should be discussed at the next session of the Working Group.

21. With regard to "comfort women", the Sub-Commission should take note of the statement by the observer for Japan and encourage the Japanese Government to continue compensating the women concerned.

22. She fully supported all the recommendations by the Working Group on Contemporary Forms of Slavery.

23. Mr. PARK welcomed the more active participation of government observers and NGOs in the sessions of the Working Group on Contemporary Forms of Slavery and the prospective involvement in future sessions of representatives of United Nations specialized agencies.

24. The Working Group on Contemporary Forms of Slavery had warned that new insidious forms of slavery were emerging in addition to those already existing. Every effort must be made to remove the two main causes of contemporary forms of slavery: poverty and ignorance. He fully supported the recommendation that the General Assembly should consider proclaiming 2 December each year as the day for the abolition of all forms of slavery. The Sub-Commission should perhaps endorse that recommendation in a separate resolution.

25. With regard to sexual slavery during wartime, he had been particularly impressed by the personal story of a 75-year-old woman who had come to Geneva to attend the proceedings of the Sub-Commission and whose sorrowful experience during the Second World War, shared by some 200,000 other women, had led to the irretrievable loss of her honour and dignity. Her plight should serve as a guide for future action. The Working Group had rightly invited the Government of Japan to continue to cooperate with the United Nations and its specialized agencies in the matter and Mr. Fan had urged the Japanese authorities to cooperate also with the Governments, victims and NGOs

concerned. Money was clearly not the only issue involved. He trusted that the Government of Japan would take prompt and forthright action so that the Working Group could conclude its consideration of the issue in the near future.

Statements equivalent to the exercise of the right of reply

26. Mr. EL KARIB (Observer for the Sudan), referring to a statement by Christian Solidarity International (CSI), said that the NGO in question had openly allied itself with the armed rebel movement, the Sudanese People's Liberation Army (SPLA). In March 1997, the Swiss-French branch of CSI had withdrawn support from its sister organization because of the latter's decision to associate itself with SPLA in contravention of article 3 of the organization's Statutes, which rejected all forms of support for violence. It was questionable whether such a biased organization should be allowed to participate in the proceedings of the Sub-Commission. With regard to its allegation that tens of thousands of black Sudanese, including children, were being held in bondage in Khartoum, he wondered how the authorities could conceal such enormous numbers of enslaved people from the representatives of the international community and the NGOs based in the city. The CSI accused Western diplomats of being gullible. But why had it never mentioned the thousands of Sudanese citizens, including children, who were subjected to forced labour and conscription by its SPLA allies, according to the 1994 report of Human Rights Watch (Africa) and the 1990 human rights report of the State Department of the United States? And why had some 3 million southern Sudanese sought refuge in Khartoum and other northern States instead of fleeing south or to neighbouring countries that were geographically closer?

27. His Government had set up an independent committee to investigate all allegations, including those concerning slavery, and had repeatedly invited the Working Group on Contemporary Forms of Slavery to visit the country. No reply had yet been forthcoming.

28. CSI had also offended Islam, a religion of tolerance and peace, by implying that it condoned an ideology of genocide and by alleging that what CSI termed an "Arab-Islamic State" could order the collective punishment of communities that resisted its programmes by consigning them to slavery. His Government totally rejected such ill-intentioned and unsubstantiated accusations.

29. Mr. OLADEJI (Observer for Nigeria) referred to paragraph 62 of the report of the Working Group on Contemporary Forms of Slavery (E/CN.4/Sub.2/1997/13), which mentioned Nigeria in connection with alleged trafficking in children for purposes of sexual exploitation. The observer for Nigeria had responded at the time to the allegations, which had been made by an NGO. The Nigerian Government did not sanction trafficking in children or the sexual exploitation of young people. Such practices were contrary to Nigerian law and the perpetrators were brought to justice and punished. Nigeria's initial report to the Committee on the Rights of the Child, which had been submitted in September 1996 (CRC/C/8/Add.26), had been publicly commended as one of the best ever received. Nigerian legislation regarding children's rights was currently being updated. The Ministry for Women's Affairs also dealt with issues relating to children's rights and the Minister,

who was a member of the Sub-Commission, had greatly contributed to the promotion of such rights in Nigeria. Her latest initiative, the Family Economic Assistance Programme, was designed to strengthen the family unit and eliminate economic hardship which was sometimes the source of unwholesome practices involving children. The Government was committed to ensuring a decent education and a better life for all Nigerians, regardless of age, sex and origin.

30. The CHAIRMAN said that the Sub-Commission had concluded its consideration of agenda item 6.

PREVENTION OF DISCRIMINATION AGAINST AND THE PROTECTION OF MINORITIES (agenda item 8) (E/CN.4/Sub.2/1997/18)

31. Mr. EIDE, Chairman-Rapporteur of the Working Group on Minorities, introducing the report of the Working Group on its third session (E/CN.4/Sub.2/1997/18), said that the ultimate aim of its activities was to advance stability and peace in national societies while at the same time advancing the recognition and blossoming of the different cultural, linguistic and religious strands within society as a whole.

32. Whereas a national society comprised the whole population, communities were made up of different ethnic, national, religious or linguistic groups, some constituting a majority and others a minority. Some individuals were strongly attached to a particular community while others had multiple links. Membership of the national society, or citizenship, should be open to all permanent residents. Membership of ethnic, linguistic or religious groups was a choice made by individuals and should not give rise to discrimination. The principle of equality and non-discrimination should be respected by both majority and minority communities.

33. The purpose of the Declaration on the Rights of Persons Belonging to National, Ethnic, Religious and Linguistic Minorities was to ensure that such persons could maintain and develop their culture while enjoying equality in the national society. The main challenge was to strike a balance between, on the one hand, integration and equality and, on the other, full enjoyment of separate identities. In resolution 1997/16, the Commission on Human Rights had expressed concern at the growing frequency and severity of disputes concerning minorities and their often tragic consequences, noting that minorities were particularly vulnerable to displacement through population transfers, refugee flows and forced relocation.

34. The Working Group's mandate was to review the promotion and practical realization of the Declaration, to examine possible solutions to problems involving minorities, including the promotion of mutual understanding between and among minorities and Governments, and to recommend measures for the promotion and protection of their rights. Its work on the first task had been greatly facilitated by the information made available by minority representatives from different parts of the world, Governments, NGOs and regional and international intergovernmental bodies, especially with regard to constitutional arrangements, national legislation and State practices. In connection with the second task, it had discussed at the previous session the

need for multicultural and intercultural education. In pursuance of its third task, it had begun to prepare recommendations for measures to promote and protect persons belonging to minorities.

35. A seminar on multicultural and intercultural education had been held jointly by the High Commissioner/Centre for Human Rights and the International Service for Human Rights in May 1997. The discussions highlighted the importance of multicultural and intercultural education for the preservation and promotion of the identity of diverse groups while enabling those groups to be integrated rather than assimilated into society. Multicultural education was designed to meet the separate needs of minority groups while intercultural education was designed to teach the members of different cultures, whether in a majority or minority position, to interact constructively. The recommendations of the seminar were contained in the report (E/CN.4/Sub.2/AC.5/1997/WP.5). He noted that article 29 of the Convention on the Rights of the Child, which had been ratified by 191 States, contained a provision committing States parties to the promotion of intercultural education.

36. The Working Group had been informed of the existence in several countries of commissions, councils or other bodies responsible for facilitating conciliation and avoiding conflict. It would analyse the results of such initiatives in order to make recommendations for their wider use.

37. The treatment of national minorities sometimes caused tensions between neighbouring States. Machinery to address such problems had been developed, particularly in Europe. The Organization for Security and Cooperation in Europe (OSCE) had established an office of High Commissioner on National Minorities whose incumbent had achieved admirable results in terms of alleviating tensions over minority issues.

38. The Working Group had recommended that United Nations treaty monitoring bodies should include in their guidelines to States parties requests for information regarding minority rights. In particular, it had recommended that the Committee on the Elimination of Racial Discrimination (CERD) should discuss, inter alia, the matter of allocation of citizenship and its consequences for indirect discrimination on grounds of race, colour, descent or ethnic or national origin.

39. It had underlined the need for the United Nations and the specialized agencies to increase the resources targeted to multicultural and intercultural educational projects for curricular development; the preparation of suitable teaching material; awareness-raising among those responsible for national educational policy; the promotion of NGOs and community-based organizations in multicultural and intercultural education; and models for the education of teachers.

40. The Working Group had discussed the definition of minorities. Mr. Chernichenko had submitted working papers on the subject, highlighting a number of issues that he had deemed particularly important as guidelines for further elaboration and refinement. His own opinion was that a definition was unnecessary for the adequate protection of minorities; a pragmatic approach would avoid the risks arising from a rigid legal definition.

41. The Working Group's concern was to advance stability and peace but at the same time to advance the recognition of the different cultural, linguistic and religious strands within society as a whole. The Commission had expressed concern over the growing frequency and severity of disputes concerning minorities in many countries and over the fact that minorities were particularly vulnerable to displacement. Part of the remedy was for Governments to adopt policies of minority protection and group accommodation along the lines suggested by the Working Group, including national recourse and conciliation machineries and the use of bilateral, regional and global mechanisms. The Working Group had therefore recommended that the United Nations High Commissioner for Human Rights should develop procedures for conflict prevention in which members of minorities could participate from the earliest possible moment. International and bilateral technical cooperation could also significantly contribute to the realization of minority rights and thereby to national stability and peace. Governments could be advised on the drafting of bills, on reviewing legislation in the light of international standards, on improving the relations of law enforcement agencies and the judiciary with minorities and on planning human rights education.

42. Willingness on the part of Governments, however, was not enough. Extremely militant groups had emerged, bent on preventing peaceful group accommodation. Perhaps in some countries there had been insufficient acceptance by the dominant groups of the need for pluralism, but in other cases the militant groups had been mobilized on the basis of inflated claims for self-determination, going far beyond what was understood by the right to self-determination in international law. Some of the groups were inspired or abetted by diaspora groups or even, more or less secretly, by foreign States. They took hostages, carried out acts of terror against the civilian population, killed moderate elements within their own group and dealt in illicit weapons and drugs. Some even sent their representatives to human rights gatherings, including the Sub-Commission. Even in the face of severe provocation, however, Governments should always abide by established humanitarian standards, which it was the task of the Sub-Commission to monitor. He stressed that the greatest threat to the rights of minority groups came from those within their own ranks who refused to accept the peaceful processes of group accommodation and were even less willing to accept cultural diversity than were the Governments they attacked. Peaceful group accommodation was a two-way task; opposition groups should rid themselves of instigators of violent conflict who made the situation even worse for the groups for which they claimed to fight.

43. Mr. BOSSUYT said that the report of the Working Group on Minorities, along with those of the Working Groups on Contemporary Forms of Slavery and on Indigenous Populations, showed the importance of the Sub-Commission's contribution to the protection of human rights. The reports also demonstrated the worth and efficiency of inter-sessional working groups, which provided a forum for dialogue between experts, governments and NGOs. As the Working Group on Minorities drew towards the end of its three-year mandate, it was important that its renewal should receive the fullest support. It had always previously been paradoxical that the Sub-Commission should have no special

working group for the protection of minorities. Mr. Eide and his colleagues had fulfilled the role admirably since 1995, drawing on the fullest range of participants, including that of specialists in the field.

44. When it had first been established, some people had doubtless feared that it would be yet another wailing wall, before which NGOs would come to spout their grievances against States. That had not occurred. True, many NGOs - some involved specifically with the protection of minorities - had participated, but they had shared their experiences in a constructive manner and taken advantage of the possibility of dialogue. The formula had proved an undoubted success and the Working Group's mandate should be extended.

45. The Working Group had broached an impressive variety of questions, on which he would make only a few comments. First, paragraph 18 stated that citizenship "should be extended liberally to all who had made the State their permanent home" but that was to see the matter only through the eyes of the individual; it would be wrong to overlook the point of view of the State concerned, which had the right to allow or refuse a foreigner permanent residence and, a fortiori, citizenship.

46. Secondly, he could not agree with the opinion of the observer quoted in paragraph 29 that there was "no evidence that the separation of Church and State led to a more peaceful coexistence of religious minorities within society". On the contrary, it was very hard to see how there could be peaceful coexistence without the separation of Church and State in societies containing religious minorities.

47. Thirdly, there was much to be said for the intercultural and multicultural education discussed in paragraph 57ff., but it should be pointed out that when there was an imbalance between various cultures, whether by reason of the numbers involved or the inequality of social and economic status, the protection of the most vulnerable culture might be difficult to reconcile with multicultural or intercultural education.

48. Fourthly, given that no definition of minorities existed, bilateral treaties, as envisaged in paragraphs 66 and 67, would have the additional merit of extending recognition to a specific minority. He also fully supported Mr. Eide's suggestion, mentioned in paragraph 87, that the role of the media should be the subject of a future seminar, as outlined in a working paper submitted by Mr. Khalil (E/CN.4/Sub.2/AC.5/1997/WP.4). He also supported the suggestion in paragraph 93 that the Working Group should be the focal point of the United Nations in the field of minority protection; and he unreservedly endorsed the recommendations contained in paragraphs 108 to 117 of the report.

49. Lastly, with regard to the question of the definition of minorities mentioned in paragraph 99ff., raised by Mr. Chernichenko's working paper (E/CN.4/Sub.2/AC.5/1997/WP.1), his own view was that it was impossible to come up with an abstract definition of minorities that would enable the beneficiaries of the protection of minorities to be identified in a legal form. The same went for the concept of a "people". There were too many imponderables, such as history, origin, social and economic situation, numbers

(nationally and regionally, but not perhaps locally) and relations with other groups in the same or neighbouring states, which all made up the identification of a minority.

50. Mr. GUISSÉ, while endorsing the Working Group's recommendations, noted that for the first time the idea of classifying minorities had been mooted. That raised the question of what criteria should be used; there was a danger of hierarchization, for which reason he would prefer a system of listing. When he had been involved in the elaboration of the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, the definition of national minorities as applied to citizenship had proved a stumbling block. He wondered how the Working Group viewed the matter. It would be useful to integrate the concept of national minorities into that of minorities as a whole, but a definition of national minorities might well be impossible. At any rate, they could be exhaustively listed, alongside the ethnic, religious and linguistic minorities. The situation of Africa was particularly pertinent, in that, in his view, the whole continent was made up not of indigenous populations but only of minorities.

51. It was a mistake to suppose that minorities had to live on the margins of society. On the contrary, they had a duty to participate in every aspect of life in the countries where they lived. If that duty was not stressed, there was a danger that separatist trends might be encouraged. He therefore urged the Working Group to dwell more on the duties of minorities within the context of their societies, even while fully acknowledging their separateness. In that connection, he considered that the implications of citizenship should be analysed in relation to all the inhabitants of a nation, not just specific groups.

52. Mr. CHERNICHENKO considered, as a member of the Working Group on Minorities, that its mandate could be usefully extended. For technical reasons its voice had not always been fully heard; some members had argued that working papers of the Working Group should have the status of Sub-Commission working papers, circulated in all the languages, as appendices to the report. His own first working paper, for example, on the definition of minorities had been issued in Russian, whereas the second had not. Similarly, the working paper by Mr. Ali Khan on domicile and residence concerning minorities and migrant groups (E/CN.4/Sub.2/AC.5/1996/WP.4) could more appropriately have appeared as a working paper of the Sub-Commission itself and Mr. Ali Khan could have been named special rapporteur.

53. He stressed that his working paper had presented merely a working hypothesis to serve as a guideline for a working definition of minorities. No hard and fast definition was possible but to do without guidelines was as pointless as talking about human rights without establishing who was to enjoy them, as well as running the risk of duplicating the work of the Working Group on Indigenous Populations. Without insisting on an acceptance of his own definition, he could not agree that none was necessary. The report did not mention that the Working Group had taken note of his definition.

54. It was illogical for Mr. Eide to use his own working definition without extending the same privilege to the Working Group, where the discussions had hammered out a flexible, pragmatic working definition. The report did not

reflect the arguments that had ensued, during which a number of points had been raised and should be clarified. First, no one denied that there was much in common between indigenous peoples and minorities, but it was clear that indigenous people did not usually see themselves as minorities. In contrast to minorities, they believed in the right to self-determination. Secondly, paragraph 7 of his working definition (which appeared in document E/CN.4/Sub.2/AC.5/1996/WP.1) assumed, in the absence of evidence to the contrary, that minorities wished to preserve their identity. That would enable the international community to put pressure on Governments to help minorities preserve their identity. Thirdly, it was not always possible to provide special protection for minorities, given that they might number only some 20 people, as was the case with some minorities in his own country. In such cases the aim must surely be to work for prevention of discrimination, not special protection. Fourthly, it was sometimes asked how the will of minorities to preserve their identity was to be determined; how numerous they needed to be to qualify for special protection; and what the special characteristics were that distinguished an indigenous population from a minority. Those were all important questions and were dealt with in his first working paper; but they should not form part of the definition of minorities. Lastly, he said that his second working paper (E/CN.4/Sub.2/AC.5/1997/WP.1) had attempted to take into account comments by the representatives of Azerbaijan, Cuba, Mexico and Nigeria and by some NGOs. He was not happy with the translation of his working paper into English; he hoped that a forthcoming corrigendum would clear up any misunderstandings.

55. Mr. YIMER said that broadly speaking he endorsed the conclusions and recommendations contained in chapter VII of the report of the Working Group on Minorities on its third session (E/CN.4/Sub.2/1997/18). He strongly supported the view expressed by the Chairman-Rapporteur in paragraph 101 of the report, that there was no need to arrive at a definition of minorities to ensure adequate protection of their rights as provided for in the Declaration of 1992 and contained in other international human rights instruments; and that a pragmatic approach would avoid the risks arising from a rigid legal definition. In his view, the Working Group should not waste any more time trying to come up with such a definition. He would welcome clarification by Mr. Chernichenko of the difference between a strict legal definition and a working definition in the context of the Working Group's mandate; for it was hard to see what forums other than the Working Group on Minorities would benefit if a strict legal definition of minorities were found. Mr. Chernichenko's efforts to find a legal definition, while commendable, served no useful purpose; and he hoped that in future the Working Group would concentrate on other, more useful, issues.

56. Among the recommendations contained in the report, he singled out those concerning preparation of a manual in minority languages (para. 108); establishment of a database on good practices (para. 109); making minority rights issues and programmes for intercultural education a core component of the action plans for the Decade (para. 110); inclusion in treaty bodies' reporting guidelines for States parties of a request for information concerning the minority-related rights relevant to the treaty in question (para. 112); and requests for concrete data on the States' policies on

multicultural and intercultural education aimed at promoting the harmonious coexistence of minorities (para. 113). All those proposals could very usefully be adopted.

57. Important and innovative proposals concerning further measures to promote and protect minority rights were to be found in paragraphs 120 and 122 of the report. The recommendation concerning the rights of minority women was particularly worth pursuing, and he hoped that the Sub-Commission would accept it. He also endorsed the recommendation, to be found in paragraph 124, that the role of the media should be one of the themes considered at the Working Group's future sessions.

58. In the area of possible solutions to problems involving minorities - one of the Working Group's mandates - the Working Group had noted in paragraph 114 that bilateral relations were sometimes affected by group tensions, and had advised that wider use should be made of bilateral treaties. While that proposal had its merits, he wondered whether it was within the Working Group's strict mandate to make such a far-reaching recommendation.

59. In some other instances, too, the Working Group seemed to be straying from its carefully formulated mandate, set out in paragraph 2 of the report. In particular, in paragraph 116 it recommended that the Sub-Commission should request the High Commissioner for Human Rights to develop and implement procedures for conflict prevention. Prima facie, the substance of that recommendation seemed not to be within the mandate of the Working Group. The Working Group was not a dispute settlement forum, and he doubted that even the High Commissioner for Human Rights had the mandate to develop and implement such procedures. Similarly, one of the major themes for its future sessions recommended in paragraph 124 was "migration and displacement". He asked the Chairperson-Rapporteur to explain how those two recommendations could be reconciled with the Working Group's mandate.

60. On the future role of the Working Group, he had no quarrel with the first two proposals set out in paragraph 93 of the report. However, he had grave doubts as to whether a Working Group consisting of five members had the mandate - or the capability - to find methods of "defusing tensions and preventing conflict". The core of the Working Group's mandate, set forth in paragraph 2 (b) of the report, was the far more modest objective of "promotion of mutual understanding between and among minorities and Governments". How did that square with the Working Group's admirable proposal, made in all good faith, to include "defusing tensions and preventing conflict" in its mandate? He raised those questions because he perhaps attached more significance to the work of the Working Group on Minorities than to that of any other working group, and believed that it behoved it to conduct that work with the requisite caution. He therefore trusted that the Chairman-Rapporteur would respond to those questions when the time came to wind up the debate on that item.

61. Mr. FAN Guoxiang said that, like Mr. Yimer, he believed that the question of minorities was one of the most important currently under review in the Sub-Commission, and that much was therefore expected of the Working Group on Minorities. He shared the Chairman-Rapporteur's view that two dimensions of the issue were essential: on the one hand, advancing stability and peace; and on the other, advancing the recognition and blossoming of the different

cultural, linguistic and religious strands within society as a whole. The problem, however, was to strike a balance between those two important dimensions in a society.

62. The Chairman-Rapporteur had also stated that in dealing with minority problems it was useful to distinguish between three different levels: society, community, and the individual. He took it that by "society" and "community" the Chairman-Rapporteur meant "the State" and "different groups" respectively. There again, the problem was to strike a balance between those three levels. The Chairman-Rapporteur had more than once stated that, first and foremost, it was up to Governments and the dominant or majority groups to respect minorities; but that minorities must also respect the community and society. He agreed that it was on that basis that problems relating to minorities could be settled over the long term. Emphasis must be placed on the rights of minorities, but in the overall context of the interests of society as a whole.

63. The extensive documentation produced by the Working Group contained many interesting and innovative ideas. One important concept evoked was that of intercultural education. Ethnic, linguistic and religious groups had been formed in a long historical process, and it was necessary to analyse the background to those groups' problems. Intercultural, inter-educational, and even inter-economic exchanges might be of value in that regard. He cited the example of Tibet, a secluded and remote area of China whose doors had been opened to foreign visitors and businessmen as a result of economic reforms, and where interregional economic exchanges would clearly be of value.

64. On the future role of the Working Group, he said that if it was to move away from theoretical studies towards practical solutions to problems, the Working Group must heed the Chinese proverb, and be active yet at the same time prudent. It was first and foremost for Governments and local populations to find solutions to minority problems. International assistance was also important, but without the agreement of the Governments, populations and minorities concerned, active measures could prove counter-productive. Furthermore, in rendering international assistance, the Working Group and other United Nations mechanisms must be fair and impartial, and care must be taken to avoid unnecessary international interventions motivated, not by concern for the welfare of minorities, but by political considerations.

65. Like Mr. Yimer, he had some problems with the second sentence of paragraph 93 of the report. The first concerned the meaning of the expression "main forum". If the expression was to be understood in the context of the United Nations, then it was acceptable. If it was to be understood in the context of the entire international community, it was not acceptable; for no international body, including the United Nations, could wrest final responsibility for finding solutions to minority problems from the hands of Governments concerned, local populations and the minorities themselves. He also shared Mr. Yimer's reservations concerning the objective of defusing tensions and preventing conflict. While well intentioned, that objective was perhaps unrealistic, for it seemed unlikely, for instance, that the Working Group would be able to coordinate with peacekeeping forces. Furthermore, questions of mandate also arose.

66. Another Chinese saying referred to the dangerous predicament of "a blind man riding a blind horse towards the brink of a precipice at midnight". Over the past 10 years, the dangers of such an approach had been demonstrated in the former Yugoslavia and various African countries, where vast sums of money had been spent and many casualties sustained, but few results achieved. The Working Group realized that such "instant solutions" caused more problems than they solved, and instead adopted a realistic, step-by-step approach to the problems of minorities. He was confident that such an approach could achieve fruitful results.

67. Mr. CHERNICHENKO, responding to the comments by Mr. Yimer, said that the difference between a strict legal definition and a working definition of minorities was, of course, that the former was legally binding, whereas the latter was not, so that the Working Group could choose on a case-by-case basis whether to adhere to or diverge from that definition. The Working Group would certainly not "waste any more time" seeking a definition, as its work on the question was now concluded. In any case, he did not agree that that task was a waste of time. For many years he had been a member of the Working Group of the Commission that had drafted the Declaration of 1992 on Minorities. That Group had agreed that in due course the question of a definition would have to be taken up again, and had subsequently done so. The Working Group on Minorities had taken note of his definition, and he was satisfied with that outcome.

The meeting rose at 1 p.m.